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APR 07 2006

PTO/SB/21 (03-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/813,518
		Filing Date	09/27/2003
		First Named Inventor	SANTA CRUZ, Michael
		Art Unit	3611
		Examiner Name	Silbermann, Joanne
Total Number of Pages in This Submission	8	Attorney Docket Number	256.100

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please Identify below):
<b>Remarks</b> Credit card payment form - 1 pages This form - 1 page Fee Transmittal form - 1 page  <i>Petition = 5 pages → including certificate of mailing of            Reply on 02/20/06, and 2nd payment of fees            on 03/17/06</i>		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Michael A. Shippey
Signature	<i>Michael A. Shippey</i>
Date	04/07/2006

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 04/07/2006

Typed or printed	Michael A. Shippey
Signature	<i>Michael A. Shippey</i>
	Date
	04/07/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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PTO/SB/17 (12-04v2)

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).  
**FEE TRANSMITTAL**  
For FY 2005 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

130

## Complete If Known

Application Number	10/813,518
Filing Date	09/27/2003
First Named Inventor	SANTA CRUZ, Michael
Examiner Name	Silbermann, Joanne
Art Unit	3611
Attorney Docket No.	256.100

## METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: \_\_\_\_\_ Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

<input type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee
<input type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17	<input type="checkbox"/> Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fee Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)

## Small Entity

## Fee (\$)

## Fee (\$)

50 25

Each independent claim over 3 (including Reissues)

## Fee (\$)

## Fee (\$)

200 100

Multiple dependent claims

## Fee (\$)

## Fee (\$)

360 180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee (\$)
- 20 or HP =	x	=				

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee (\$)
- 3 or HP =	x	=				

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

## Fee Paid (\$)

Other (e.g., late filing surcharge): petition fee

\$130

## SUBMITTED BY

Signature	<i>Michael A. Shippey</i>	Registration No. (Attorney/Agent) 45,588	Telephone 714-693-9110
Name (Print/Type)	Michael A. Shippey		Date 04/07/2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APR 07 2006

**MICHAEL SHIPPEY, PH.D**  
**TECHNICAL CONSULTANT & PATENT AGENT**



PATENTS \* TRADEMARKS \* COPYRIGHTS

Filed Via RightFax to: (871)-273-8300

April 7, 2006

*Law Offices of*  
**KARLA SHIPPEY**  
*4848 Lakeview Avenue, Suite B*  
*Yorba Linda, CA 92886-3452*

*Toll Free:* (800) 693-9110  
*Telephone:* (714) 693-9110  
*Faxsimile:* (714) 693-7980

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Date: Friday, April 07, 2006 Application No.: 10/813,518 Filed: 03/30/2004

Examiner Joanne Silbermann Art Unit 3611 Office Action dated 03/17/2006

In re the Application of: Michael Santa Cruz For: **HAND GESTURE RECEIVER**

Attorney Docket number: 256.100

**PETITION TO OBTAIN WITHDRAWAL OF HOLDING OF ABANDONMENT under 37 C.F.R. 1.135 (c)**

Commissioner for Patents  
 Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests the withdrawal of the holding of abandonment of the instant application, under 37 C.F.R. 1.135 (c). Applicant notes that a full response and Request for Continued Application (RCE) was filed by RightFax on February 20, 2006. A copy of the transmission form and signed certificate of mailing is attached herewith. The six-month deadline to avoid abandonment to the final office action of mailing date August 19, 2005, was February 20, 2006, a Monday, as 02/19/2006 fell on a Sunday.

04/10/2006 TL0111 00000004 10813518

01 FC:1464

130.00 OP

This response was received in fact by the USPTO, as evidenced by the fact that it can be found on public PAIR. However, it was entered on March 17, 2006, not on the certified mailing date.

**MICHAEL SHIPPEY, PH.D**

agent no. 45,588 I-714-693-9110

The only reason Applicant can imagine for a holding of Abandonment is that the initial attempt at credit card payment was denied by the bank, for reasons unknown at the time to Applicant. After notification of this non-payment, Applicant promptly followed with substitute payment by a different credit card. The filing of this new payment was March 17,2006, by coincidence the same date as the Notice of Abandonment. A copy of the transmission form and signed certificate of mailing is attached herewith. The new payment was honored by the bank, so we note the extension fees and fees for continued examination are indeed paid.

Under 37 C.F.R. 1.135 (c), an applicant may be granted time to repair an error or omission in a reply if it appears the reply is a bona fide attempt to advance the application to final action. Applicant warrants that the reply and amendment of 2/20/2006, along with the RCE of the same date, is precisely such an attempt. Applicant has responded to all substantive points raised by the Examiner in the August 19, 2005 Office Action. The only shortcoming was the failure of the credit card, which was totally an unforeseen event to all concerned.

Applicant notes that all elements of the reply and amendment, including payment of the extension fees and fees for continued examination, are now present and in the Office.

Therefore, under 37 C.F.R. 1.135 (c), and principles of equity and fairness, Applicant prays for relief from the Office, by withdrawing the holding of abandonment, and granting of the Request for Continued Examination.

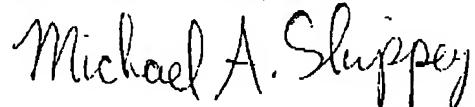
**MICHAEL SHIPPEY, PH.D**

agent no. 45,588 1-714-693-9110

**Section 3. Remarks**

Applicant has responded to all points raised in the office action of 08/19/2005, and has paid all fees. Accordingly, applicant respectfully requests a timely return to examination in this case.

Respectfully Submitted,



Michael A. Shippey, Ph.D.      Registered Agent # 45,588

4848 Lakeview Avenue, Suite B

Yorba Linda, California 92886

Telephone (714) 693-9110

APR 07 2006

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		Filing Date	09/27/2003	
		First Named Inventor	SANTA CRUZ, Michael	
		Art Unit	3611	
		Examiner Name	Silbermann, Joanne	
Total Number of Pages in This Submission		12	Attorney Docket Number	256.100

<b>ENCLOSURES</b> (Check all that apply)			
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Remarks			
Credit card payment form - 1 pages This form - 1 page RCE (SB-30) - 1 page Fee transmittal (SB-17) - 1 page Amendment & reply - 8 pages			

<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>	
Firm or Individual	Michael A. Shippey
Signature	<i>Michael A. Shippey</i>
Date	02/20/2006

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Typed or printed	Michael A. Shippey	Date	02/20/2006
Signature	<i>Michael A. Shippey</i>		

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TRANSMITTAL  
FORM

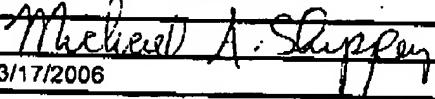
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		First Named Inventor	SANTA CRUZ, Michael
		Art Unit	3611
		Examiner Name	Silbermann, Joanne
Total Number of Pages in This Submission	2	Attorney Docket Number	256.100

## ENCLOSURES (Check all that apply)

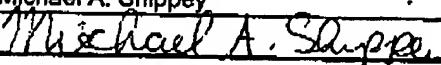
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
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<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
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Replacement for previous card for payment		

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Firm or Individual	Michael A. Shippey
Signature	
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